THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15170 of 2003

DATED:1.8.2005

Between:

The Prudential Cooperative Bank Ltd.

…Petitioner

And

A.P.Cooperative Tribunal, and others

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15170 OF 2003

ORDER:

The Prudential Cooperative Bank Limited, Secunderabad, assails the order of the A.P.Cooperative Tribunal, Hyderabad insofar as the same reduces rate of interest on the amount payable from 22% per annum compounded quarterly from the date of suit till realization, to 22% per annum simple interest on the principal sum borrowed from the date

of borrowal till the date of claim petition and thereafter at 12% per annum. Be it noted, that as second respondent borrower committed default in payment of loan, petitioner bank approached first respondent under Section 37(1) of A.P.Mutually Aided Cooperative Societies Act, 1995 (for short, the Act). The Tribunal partly allowed the O.P. modifying the interest rate from 22% per annum compounded quarterly from the date of suit till realization, to 22% per annum simple interest on the principal sum borrowed from the date of borrowal till the date of claim petition, and thereafter at 12% per annum.

A learned Single Judge of this Court (Goda Raghuram, J) in **A.P.State Cooperative Bank Ltd. V. Cooperative Tribunal, Hyderabad**, considered the issue whether Cooperative Tribunal is empowered to invoke and rely on the provisions of Section 34 of Code of Civil Procedure, 1908 to scale down the interest contrary to the agreement between parties. His Lordship after elaborate discussion of the issue, held that the Cooperative Tribunal constituted under Section 75 of the A.P. Cooperative Societies Act, 1964 is denuded of any such power to interfere with rate of interest that is owed by a debtor to company like petitioner. The question raised in this Writ Petition is therefore squarely covered by said judgment. The learned counsel for contesting respondents does not dispute the legal position.

Following the same, the Writ Petition is allowed modifying the impugned order and further observing that petitioner bank shall be entitled to recover the interest from the borrower as per the decree/award/certificate issued by competent authority under the Act.

The Writ Petition is accordingly allowed.

_____

(V.V.S.RAO, J)

1.8.2005

bnr